

**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

IN RE INDYMAC ERISA LITIGATION

Master File No.:

CV 08-04579 DDP(VBKx)

STIPULATED PROTECTIVE ORDER

On consideration of the Stipulation for Protection of FDIC Confidential Materials submitted by Defendants Jim Barbour, Louis E. Caldera, Kevin Cochrane, Hugh M. Grant, Ken Horner, A. Scott Keys, Rayman Mathoda, Michael W. Perry, Jennifer Pikoos, and John F. Seymour (collectively, “Defendants”) and Plaintiffs Sam Zhong Wang and Jeffrey Washington (“Plaintiffs,” and together with Defendants, the “Parties”), and it appearing to the Court that such a Protective Order is necessary and appropriate and will facilitate the effectuation of the settlement reached in this Action,

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1 IT IS THEREFORE ORDERED that:

2 1. For purposes of this Protective Order, the defined terms “Settlement
3 Administrator,” “Plan of Allocation,” “Settlement,” “Settlement Administrator,”
4 “Class,” “Class Member,” and “Class Counsel” shall have the same meaning as
5 those terms are defined in the Stipulation and Agreement of Settlement of Class
6 Action – ERISA the parties executed on June 1, 2010 (the “Settlement”).

7 2. The FDIC Confidential Information is defined as the following
8 information for each Class Member produced by the FDIC as Receiver (the
9 “Receiver”): name; last known address; social security number, as well as the
10 following information for each Class Member’s individual account holdings:
11 balance of IndyMac Bancorp Stock in the IndyMac Stock Fund of at the start of the
12 Class Period; total credits of IndyMac Bancorp Stock to the IndyMac Stock Fund
13 during the Class Period; total disbursements of IndyMac Bancorp Stock from the
14 IndyMac Stock Fund during the Class Period; and balance of IndyMac Bancorp
15 Stock in the IndyMac Stock Fund at the end of the Class Period.

16 3. FDIC Confidential Information produced by the Receiver shall be
17 treated as confidential. Counsel in this Action shall take all steps necessary to
18 ensure that the FDIC Confidential Information shall not be disclosed except
19 according to the specific terms of this Protective Order.

20 4. All FDIC Confidential Information shall be used solely for the
21 purpose of effecting the settlement of this Action and for no other purpose.

22 5. The FDIC Confidential Information shall be delivered by the Receiver
23 to the Settlement Administrator, within fifteen (15) days after the FDIC receives a
24 fully executed copy of this Protective Order which shows that the Protective Order
25 has been entered as an order in the Action, and the appropriate Consent(s) have
26 been executed as required in Section 7 below.

27 6. The FDIC Confidential Information shall not be disclosed except to:

1 (a.) the Court;

2 (b.) the Settlement Administrator referred to in Section 1.36 of the
3 Settlement, for the sole and limited purpose of administering class
4 notice(s) in the Action and complying with the other duties of
5 Settlement Administrator in the Action, and a third party utilized by
6 the Settlement Administrator to comply with its notice duties;

7 (c.) Class Counsel under the following circumstances only:

8 (i.) to the extent the Settlement Administrator seeks input or
9 assistance from Class Council to verify membership in the
10 Class;

11 (ii.) to the extent the Settlement Administrator seeks input or
12 assistance from Class Counsel to notify Class Members of
13 developments in the Action arising after distribution of notice,
14 and;

15 (iii.) to the extent the Settlement Administrator seeks input or
16 assistance from Class Counsel to respond to inquiries from
17 Class Members, including but not limited to inquiries regarding
18 the Plan of Allocation and individual Class Members' estimated
19 pro rata share of the Settlement.

20 7. Before obtaining access to the FDIC Confidential Information, each
21 person to be provided access pursuant to this Protective Order, other than the Court
22 or Court personnel, shall acknowledge in writing, in the form of Exhibit A
23 attached, that he or she has read this Protective Order, agrees to be bound by it, and
24 any disclosure in violation of this Protective Order shall constitute a contempt of
25 court (the "Consent"). Class Counsel shall bear the burden of confirming such
26 Consents are executed and shall retain each original signed Consent. A copy of
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1 each executed Consent shall be sent to counsel for the FDIC specified in Section 9
2 within forty-five (45) days of execution.

3 8. All FDIC Confidential Information that is filed with the Court, and
4 any pleading, motions or other papers filed with the Court disclosing any FDIC
5 Confidential Information shall be filed under seal and kept under seal until further
6 order of the Court.

7 9. Any notices, and copies of all written Consents by any individual
8 having access to FDIC Confidential Information as required by this Protective
9 Order, shall be in writing and sent by certified mail, return receipt requested, to
10 counsel for the Receiver as follows;

11 Jeffrey E. Thomas
12 Counsel, Section Chief
13 Legal Division
14 Federal Deposit Insurance Corporation
15 40 Pacifica, Suite 1000
16 Irvine, CA 92618
17 jefthomas@fdic.gov

18 or to such other counsel as the FDIC shall designate in writing.

19 10. At the conclusion of this Action, including all appeals, all FDIC
20 Confidential Information in the possession or control of any person granted access
21 under this Protective Order, including all copies, extracts and summaries, shall be
22 immediately returned to the FDIC attorney named in Section 9 above or otherwise
23 disposed of in any other reasonable or less expensive manner as may be directed
24 by the Receiver in writing.

25 11. The failure of any party to this Protective Order to enforce any
26 provision of this Protective Order shall not be construed as a waiver of such
27 provision, nor be construed in any way to affect the validity of this Protective
28 Order, or the right of any party, including but not limited to the Receiver, to

1 enforce every provision. No waiver of any breach of this Protective Order shall be
2 held to constitute a waiver of any other breach.

3 12. In the event that any Party to this Protective Order, including the
4 Settlement Administrator and any person signing a Consent, receives a subpoena,
5 legal process, or court order seeking disclosure of any of the FDIC Confidential
6 Information, the Party, entity or person shall provide immediate notice to the
7 Receiver in a manner reasonably calculated to give the Receiver an opportunity at
8 its expense to protect the confidentiality of the information involved.

9 13. This Stipulation and Protective Order may be executed in one or more
10 counterparts, each of which shall be deemed an original document, and all of
11 which, when taken together, shall be deemed to constitute a single document. Fax
12 signatures and electronically transmitted signatures (ie: pdf files) shall constitute
13 original signatures for the purpose of this Agreement.

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15 IT IS SO ORDERED

16 Dated: September 28, 2010



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18 UNITED STATES DISTRICT JUDGE

1 EXHIBIT A

2 Consent Regarding
3 FDIC Confidential Information

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5 UNITED STATES DISTRICT COURT
6 CENTRAL DISTRICT OF CALIFORNIA

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8 **IN RE INDYMAC ERISA
LITIGATION**

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10 **Master File No.: 08-04579 DDP(VBKx)**

11 **CONFIDENTIALITY MATERIALS RECEIPT AND AGREEMENT**

12 I, _____, state:

13 1. I reside at _____.

14 2. My present employer is _____.

15 3. My present occupation or job description is _____.

16 4. I hereby acknowledge that protected and confidential information is

17 being provided to me pursuant to the terms and restrictions of the Stipulation and
18 Protective Order entered by the Court on _____, 2010 in the above-
19 referenced litigation (“Protective Order”). I further acknowledge that I have been
20 given a copy of the Protective Order, have read its terms and conditions, and agree
21 to be bound by the terms. I understand that the confidential information which I
22 will have access to shall be used solely for the purpose of this case and will not be
23 used or disclosed outside of this case. I further agree that all FDIC Confidential
24 Information, as that term is defined in the Protective Order, may only be disclosed
25 as specifically set forth in the Protective Order. I promise that I will not disclose
26 as specifically set forth in the Protective Order. I promise that I will not disclose
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1 to, reveal, or discuss in any way such confidential information or the facts and
2 information contained therein with any other person other than as authorized by the
3 Protective Order.

4 5. I agree that even after I cease to be actively involved in the above-
captioned litigation, I shall continue to be bound by the terms of this Consent and
6 the Protective Order.

7 6. I hereby submit to the jurisdiction of the Court for purposes of
8 enforcing the Protective Order.

9 7. I declare under penalty of perjury that the foregoing is true and
10 correct.

11 Executed on _____, 20___.
12 At _____.

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